Registered Charities Newsletter

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From the Director General

As discussed in *Registered Charities Newsletter* No. 21, the Charities Directorate has undergone a significant reorganization over the last few months.

One of the benefits of this reorganization is that it allows us to focus on some of the reforms to which we have committed. These reforms follow the recommendations of the Charities Regulatory Reform Initiative, which aims at improving the regulatory framework for charities. In this newsletter, I am pleased to bring you details of two of the initiatives that are taking place under the reorganization.

The newly organized Policy, Planning and Legislation Division of the Charities Directorate includes a Public Education and Contributions Program Section. One of the major new initiatives coming out of this section is the establishment of the Charities Partnership and Outreach Program.

As part of our work to increase sector education, we will soon publish a pamphlet that will help explain how charities have been affected by proposed legislation currently before Parliament. One of the topics that will be covered is the new receipting requirements. We provide some initial information on these new requirements in this newsletter.

I hope you find this information, and the other topics covered in this newsletter, to be of value. We always welcome feedback. If you have ideas for topics we could include in a future edition, or suggestions on changes that might be made to the newsletter, you can contact us by email at:
charities-bienfaisance-bulletin@ccra-adrc.gc.ca

More Ways to Serve You!
Pour vous servir encore mieux !

Canada Revenue Agency / Agence du revenu du Canada

Canada

Facts and figures

Facts and figures about charities and the CRA in 2004

In 2004, the Charities Directorate:

- received 124,705 phone inquiries on our toll free line;
- 37,860 of these were dealt with at the "tier two" level, which deals with questions of a technical nature;
- received 10,443 written requests for services from registered charities;
- received 3,043 new applications for registration as a charity;
- received 445 applications for re-registration as a charity;
- sent 482 letters to applicants advising them of the CRA's tentative view that they would not qualify for registration (charities can make further representations after receiving such a letter and may eventually be registered if they address the concerns raised in the letter);
- formally denied 19 applications (these applicants may appeal this refusal by filing a Notice of Appeal with the Federal Court of Appeal within 30 days of the date the letter was mailed);
- registered 2,592 charities (including both new registrations and re-registrations);
- revoked the charitable status of 709 organizations at their request;
- revoked 1,261 registered charities because they did not file their annual registered charity information return in the six-month period after their fiscal year-end;
- revoked eight registered charities for cause (e.g., because their activities did not comply with the requirements of the *Income Tax Act*); and
- completed 367 audits[1] of registered charities as a result of public complaints, random selection, or based on annual information returns.

What's new

Charities Partnership and Outreach Program

The CRA recently launched the Charities Partnership and Outreach Program. Under the program, contribution funding will be provided to registered charities and non-profit organizations to support activities associated with the development, implementation, and evaluation of innovative compliance-related education and training projects for charities. Both single and multi-years projects will be supported.

Organizations that undertake projects funded through this program will benefit the charitable sector by contributing to the public trust and confidence both in charities and the CRA as a regulator.

We will use our Web site to post calls for proposals for funding, announce projects that have been funded, share the results of funded projects, and provide other program-related information.

To get more information about the Charities Partnership and Outreach Program, please visit our Web site at: **www.cra.gc.ca/tax/charities/funding/menu-e.html**

Educational pamphlet

The Charities Directorate is developing a pamphlet to help explain how the changes introduced in the March 2004 federal budget will affect charities. The pamphlet will contain general information and will outline changes related to receipts, returns, appeals, sanctions, and the disbursement quota. We will mail a copy of this pamphlet to charities this summer.

New requirements for official donation receipts

The requirements for an official donation receipt have changed. The name Canada Revenue Agency and the Web site address **www.cra.gc.ca/charities** must now be printed on official donation receipts.

We have received questions based on misinformation about the new requirements for receipts. The concerns that have been brought to our attention are:

- including the CRA Web site address on every receipt;
- including the charity's full address; and
- whether the donor name and address can be handwritten instead of printed.

The CRA's name and the Web site address for the Charities Directorate should be included on every receipt. However, we recognize the need for a transition period. For the year 2005, we will accept any reasonable means of including the name and Web site address (e.g., sticker, stamp, handwritten). As receipts may have already been issued without this information, the CRA will still honour these receipts for the year 2005.

Charities still have to include their full address on receipts. This is a longstanding requirement and has not changed.

It is not the case that only the date, signature, and dollar amount can be handwritten. If a receipt has an original signature, the information on the receipt can be handwritten.

The confusion seems to stem from subsection 3501(3) of the *Income Tax Regulations*, which refers to the conditions under

[1] Number of audits is based on the fiscal year (from April 2004 to March 2005).

which receipts with a facsimile signature are acceptable. A facsimile signature can be used where all the receipts are:

- distinctly imprinted with the organization's name, address in Canada, and registration number;
- serially numbered by a printing press or numbering machine; and
- kept at the address recorded with the Minister of National Revenue or designated by that Minister.

The requirements for receipts that bear facsimile signatures have not changed. These requirements do not apply to receipts with original signatures.

We will be mailing a letter to all charities explaining the new requirements and the timetable for enforcing them. Information on this is also available on the CRA Web site at: **www.cra.gc.ca/tax/charities/jrt-e.html**

Revisions to Form T3010A

Legislative amendments to the *Income Tax Act* will affect the annual minimum expenditure requirements for registered charities (i.e., the disbursement quota). In response, Form T3010A, *Registered Charity Information Return* (return), has been revised for fiscal periods that begin after March 22, 2004. Charities completing returns for periods that start after March 22, 2004, have to use the revised Form T3010A (05), which will be available this month.

Normally a charity must file a return within six months of its fiscal year-end. However, we will give affected charities an extension. Charities with tax years that start after March 22 and end between March 23, 2004, and January 31, 2005, will not have to file a return until August 31, 2005.

Example

A charity whose fiscal period began after March 22, 2004, and ends on December 31, would normally have to file a return by June 30, 2005, but will have an extra two months under the deadline extension.

More information on the new return is available on our Web site at: **www.cra.gc.ca/charities**

Industry Canada's *Canada Not-for-profit Corporations Act*, Bill C-21

On November 15, 2004, Bill C-21, *An Act respecting not-for-profit corporations and other corporations without share capital*, was introduced in Parliament. This legislation will affect not-for-profit corporations, including registered charities that are federally incorporated. The proposed Act aims to be a leading-edge, modern, corporate governance framework for federal corporations without share capital.

The proposed legislation does not address or change any provisions of the *Income Tax Act* that deal with registered charities. While many of the provisions are modelled on corporate law statutes, such as the *Canada Business Corporations Act*, the provisions have been modified to meet the needs of not-for-profit corporations. Being incorporated under the proposed legislation will not give an organization either status as a registered charity or as a non-profit organization, nor would such incorporation guarantee that an organization is not-for-profit in the way that is required for registered charity status.

The proposed Act would only affect registered charities incorporated under that Act, under Part II of the *Canada Corporations Act* (CCA), or by a Special Act of Parliament. For CCA Part II corporations, the new Act would include many standard corporate law provisions that are not currently in Part II of the CCA. These provisions include:

- new incorporation as of right[2];
- improved corporate finance and financial accountability;
- clarified rights and responsibilities of Directors and officers;
- enhanced members' rights;
- new fundamental change provisions, such as amalgamation, continuance, reorganization, liquidation, dissolution, and revival;
- improved remedies and penalties; and
- new electronic communications.

For corporations created by Special Acts of Parliament, Part III of the *Canada Corporations Act* will be replaced with Part 19 of the proposed Act. The requirements for these corporations, namely the holding of an annual meeting and the filing of an annual return with Corporations Canada, will not change. However, proposed provisions include:

- giving corporations the same capacity as a natural person;
- giving more authority for the Director to change the corporate name;
- giving clearer authority for continuance; and
- creating an easier process for the liquidation and dissolution of the corporation.

No transition to the new Part 19 is required for these corporations.

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2 "Incorporation as of right" means that incorporation is automatic upon submission of an application with the articles, the names and addresses of directors, and a fee. It is the system under which business corporations are currently incorporated.

At present, under the "letters patent" system, incorporation for not-for-profits is at the discretion of the Minister. The proposed new system would eliminate the discretion, provided all the forms are filled out properly, and the fee paid.

Corporations under Part II of the *Canada Corporations Act* will have to complete a transition to the proposed Act within three years of that Act coming into force. If the transition is not completed, the Director under the proposed Act will have the authority to dissolve the corporation. The transition will involve a review of the corporation's by-laws and completion of articles of continuance (transition). Once the members have approved the changes to the by-laws and the articles, the articles will be submitted to Corporations Canada for approval. If the articles are approved, a Certificate of Continuance will be issued by Corporations Canada and the corporation will have completed the transition to the new Act. There will be no fee for the submission of the articles of continuance (transition).

The proposed legislation does not by itself play a determining role in whether a corporation created under it qualifies as a charity or as a non-profit organization under the *Income Tax Act*. All decisions about whether or not an organization qualifies as a registered charity will continue to be made by the Charities Directorate of the Canada Revenue Agency. Charities should be aware that this legislation could indirectly affect their charitable status because it can affect their incorporated status. We recommend that all affected registered charities apply for continuance by the deadline.

Note
A registered charity that does not apply for continuance could be dissolved and would cease to exist. An organization that ceases to exist cannot continue to be a registered charity.

Information on Bill C-21 and its proposed regulations is available on the Corporations Canada Web site (see the heading "Consultation" in the "What's New" section of the Web site at **www.corporationscanada.ic.gc.ca**). Information on what is required of a corporation to remain in good standing and to complete the transition will be made available on the Corporations Canada Web site when the proposed Act comes into force, which will not be before 2006. A notice will be sent to all affected corporations after the proposed Act comes into force.

For a copy of Bill C-21, go to:
www.parl.gc.ca/38/1/parlbus/chambus/house/bills/government/C-21/C-21_1/ContentsE.html

Further information on Bill C-21 will be provided in an upcoming newsletter.

REMINDER

It has come to the CRA's attention that a small number of charities have made donations to political parties. The *Income Tax Act* clearly states that charities cannot directly or indirectly support or oppose a political party or candidate for public office. This prohibits charities from donating or contributing to political parties. For further information, please contact our Client Assistance section by calling toll-free 1-800-267-2384.

Did you know?

Golf tournaments

Q. 1. Would a private foundation that held an annual golf tournament be considered to be carrying on a business for the purpose of subsection 149.1(4) of the *Income Tax Act*?

A. 1. No. An annual golf tournament held by a charity is considered a fundraising event. It does not contravene the above-mentioned subsection of the Act.

Q. 2. When a company sponsors a hole by transferring property to a charity can this be considered a gift?

A. 2. Whether the fair market value of the property transferred to a charity to sponsor a hole is the eligible amount of a gift depends on whether the company receives an advantage as a consequence of the transfer of property to the charity. If the company receives nothing in return for its payment, it has made a gift and is entitled to a receipt. However, when a company sponsors a hole, it is the Charities Directorate's experience that this generally involves some form of recognition of that gift.

It is the Directorate's position that providing simple recognition of a gift does not, generally, constitute an advantage to a donor. In this context, naming a hole after a donor company and/or placing a small, discrete sign at the hole is not necessarily an advantage. However, as the level of recognition increases (e.g., volume and visibility of signage) it is likely that the company is receiving a benefit in the form of advertising. Although providing advertising services to a donor company is not prohibited, in order to issue a receipt, the value of this advantage must be calculated and this amount will reduce the eligible amount of the gift the company can claim as a tax deduction.

A portion of the expenditure may qualify as a gift when the value of advertising and other considerations received is less than 80% of the fair market value (FMV) of the gift. If the FMV of an advantage cannot reasonably be determined, no receipt can be issued. The CRA's guidelines on split-receipting were published in *Income Tax Technical News* No. 26 on December 24, 2002, and are on the CRA Web site at: **www.cra.gc.ca/tax/technical/incometax/itnews3-e.html**

Where a company is able to claim such amounts as an advertising expense, the charity will benefit because this payment would not be receipted and therefore would not be part of its disbursement quota.

If you have encountered scenarios dealing with the issue of advantage received by a donor when there is some form of

promotion, advertising, or sponsorship at issue, we would like to hear about your views and experiences. Please write to us at the Charities Directorate c o the Charities Newsletter, or email us at: **consultation-policy-politique@cra-adrc.gc.ca**

Q. 3. Can a receipt be issued to participants in a fundraising golf tournament?

A. 3. Part of the cost to participants may be considered a gift.

For example, normal green fees that would ordinarily be charged to a non-member playing the course at the time of the event would be considered a benefit that must be taken into account in determining the eligible amount of the gift. However, no amount would be allocated to members if members do not have to pay green fees.

Income Tax Technical News No. 26 **(www.cra.gc.ca/tax/technical/incometax/itnews3-e.html)** gives information about determining the value of the various components that may be present at a fundraising golf tournament.

Q. 4. When calculating the eligible amount of the gift for participants at a golf tournament, is the calculation based on the number of participants or the number of tickets sold?

A. 4. Base the calculation on the number of tickets sold.

Q. 5. If a company buys a block of tickets for a golf tournament for its employees to participate, who gets the receipt for the part that is a gift?

A. 5. The receipt for the eligible amount goes to the purchaser. In this case, that is the company.

Q. 6. Can a charity have an organization carry on a golf tournament for it?

A. 6. A registered charity can engage a third-party organization or retain a fundraiser as an agent or other contractor to organize a fundraising event such as a golf tournament. However, the charity should maintain control over all the monies that are received as part of the event, and over any receipts that are issued.

In particular, if the charity does not run the event substantially by itself through its own employees or volunteers, it should:

- put in place a written agreement stating the modalities of the fundraising arrangement;
- make sure that tax receipts are issued only for the eligible amount of any gift;
- make sure its tax receipts are signed by an authorized individual in conformity with the *Income Tax Regulations*;
- be able to give the CRA a full accounting of the monies or that part of the monies donated to it, and the receipts that were issued in return; and
- be able to account to the CRA for the value of any benefits or potential benefits received by the participants in the golf tournament resulting from their participation in the event.

Q. 7. An organization has told us that they held a golf tournament on our behalf. They have asked us to issue receipts to attendees. Can we do this?

A. 7. No. As mentioned above, a registered charity can contract an organization to carry on activities on its behalf. However, when an activity is carried on that a charity is not aware of, it is not possible to say that this is an activity of the charity. So the charity cannot issue receipts.

Guest piece: Clergy residence deduction

Although the clergy residence deduction does not fall under the jurisdiction of the Charities Directorate, we recognize that it is of interest to many charities, and are pleased to be able to include information on the deduction. You can get more information in Interpretation Bulletin IT-141R (Consolidated), *Clergy Residence Deduction*.

Note
If you have questions on the clergy residence deduction, please contact the Individual income tax enquiries area of the CRA at:

1-800-959-8281 (for service in English)
1-800-959-7383 (for service in French)

Q. 8. What is the clergy residence deduction?

A. 8. Under the provisions of paragraph 8(1)*(c)* of the *Income Tax Act*, a person who is employed, or has an office, as a member of the clergy or a religious order or as a regular minister of a religious denomination may be entitled to claim a clergy residence deduction for his or her residence, when calculating the income from that employment or office. To qualify for the deduction, the person must satisfy both a status test and a function test.

Q. 9. What is the status test for the clergy residence deduction?

A. 9. To qualify for the clergy residence deduction, the person must be one of the following:

- a member of the clergy;
- a member of a religious order; or
- a regular minister of a religious denomination.

Whether or not a person is a "member of the clergy" or a "regular minister" depends on the structure and practices of the particular church or religious denomination. A member of the clergy is a person set apart from the other members of the church or religious denomination as a spiritual leader. It is not necessary that the process of appointment be referred to as ordination or that the appointment be by someone higher up

in the ecclesiastical hierarchy; it may be done by the congregation itself. Priests, pastors, ministers, rabbis, imams, or other persons who have been commended, licensed, commissioned, or otherwise formally or legitimately recognized for religious leadership within their religious organizations can be members of the clergy.

Q. 10. What is the function test for the clergy residence deduction?

A. 10. To qualify for the deduction, a person who has the required status must **also** be employed in a qualifying function. The person's function must be that he or she is:

- in charge of, or ministering to, a diocese, parish, or congregation; or
- engaged exclusively in full-time administrative service by appointment of a religious order or religious denomination.

Q. 11. Can the word "appointment" in the function test be interpreted to allow a recommendation or commendation of an individual to another organization?

A. 11. No. A recommendation or commendation of a person for administrative responsibilities with another organization does not constitute appointment by the order or denomination that makes the recommendation or commendation. Furthermore, for an appointment, it should either be to a position within the same entity or with an entity that is controlled by and that is an integral part of the religious order or denomination. See paragraph 20 of Interpretation Bulletin IT-141R (Consolidated), *Clergy Residence Deduction*.

Q. 12. Does an employee who is appointed by a religious order or a religious denomination to work as a full-time administrator in a bible college qualify for the clergy residence deduction if he or she has additional teaching duties?

A. 12. Yes. This can be considered full-time administrative service under the function test. Therefore, if the employee meets the status test and his or her full-time qualifying function requires at least 35 hours, the employee would qualify for the clergy residence deduction, even if he or she had additional responsibilities for teaching. A part-time administrator in an otherwise similar position does not qualify. A full-time professor or teacher would likewise not qualify.

Q. 13. Is a person who is not a member of the clergy but works with the youth of our congregation eligible for the deduction?

A. 13. No, if such a person is also not a regular minister of a religious denomination, he or she is not eligible (see paragraph 5 of IT-141R (Consolidated)).

Q. 14. Is a minister who is no longer required to be in full active service entitled to the clergy residence deduction?

A. 14. Yes. Part-time employment qualifies for the clergy residence deduction in this case. The minister would be entitled to the deduction on the employment income that meets the function test. This is in contrast to administrative functions, which must be full-time to qualify.

Q. 15. Can a clergyperson of a foreign church that has no status in Canada within its religious denomination claim the clergy housing deduction?

A. 15. No. To claim the deduction, the clergyperson must have authority and be recognized as a minister under his or her own denomination.

Q. 16. What is Form T1223?

A. 16. Form T1223, *Clergy Residence Deduction*, is the form required to claim the clergy residence deduction. Form T1223 has to be completed by both the individual claiming the deduction and the employer representative to certify that the status and function tests are met for a particular year.

Q. 17. What is Form T1213?

A. 17. Form T1213, *Request to reduce tax deductions at source*, is the form an individual can use to request that an employer deduct less tax at source.

Q. 18. Are members of the clergy who qualify for the clergy residence deduction and who ask for a withholding reduction at source required to file Form T1213 with the CRA or can this amount simply be withheld by the treasurer?

A. 18. The employee must inform the employer in writing of the employee's intent to claim the clergy residence deduction using Form T1223. The form T1213 is not required in these situations.

Q. 19. How does this affect Canada Pension Plan (CPP) amounts?

A. 19. Claiming a clergy residence deduction will reduce an individual's total taxable income. This will reduce the amount the individual must deduct for CPP. If it is known that the employee will take a clergy residence deduction, the CPP deduction can be reduced at source to reflect this. As described above, such employees must inform their employer using Form T1223. The employer can then exclude the value of the accommodation from the clergy member's income for the purpose of withholding tax and CPP at source. A tax waiver is not required in this situation. Box 14 (employment income) of the employee's T4 slip will include the amount of the housing benefit. However, the amount of the benefit will not be included in box 26 (pensionable earnings) of the T4 slip.

For more information about eligibility for the clergy residence deduction, please see Interpretation Bulletin IT-141R (Consolidated), *Clergy Residence Deduction*, available at: **www.cra.gc.ca/E/pub/tp/it141r-consolid/it141r-consolid-e.html**

To get more information on the Canada Pension Plan, call your nearest tax services office. The telephone numbers and addresses are listed in the government section of your phone book and on the CRA Web site at: **www.cra.gc.ca/tso**

Q. 20. What is the role of employers in ensuring that the amount deducted for CPP is correct?

A. 20. Employers that are charities have the same responsibility as all employers for ensuring that CPP is correctly deducted. If an employee is seeking a reduction in CPP through Form T1223, the employer is responsible for completing Part B of the form and signing it to make sure the employee has met the required conditions.

For more information about employers' obligations for withholding CPP, please see Chapter 2 of guide T4001, *Employers' Guide Payroll Deductions – Basic Information*, available at: **www.cra.gc.ca/E/pub/tg/t4001/t4001-03-e.html#P400_34608**

Court news

Volunteering services is not a gift

The Slobodrian case was centred on the question of whether the provision of professorial and research services, on a voluntary basis, was a gift within the meaning of section 118.1 of the *Income Tax Act*.

A taxpayer who was a retired professor agreed to carry out research at a university without remuneration, under a contract between the university and Public Works and Government Services Canada acting on behalf of the Canadian Space Agency. He claimed charitable donation tax credits for the services he rendered, which he considered gifts. The Minister of National Revenue disallowed the credits, and the taxpayer appealed the decision to the Tax Court of Canada.

The taxpayer argued that he had donated scientific research and higher education teaching, and that this donation was intellectual property that could be considered a gift.

The Tax Court rejected the taxpayer's appeal. The main reason was that no property had been gifted. The taxpayer had provided his services free of charge, but services are not property and cannot form the subject matter of a gift.

The Tax Court held that even if one assumes that some form of intellectual property resulted from the taxpayer's research efforts, this property could not have been gifted by the taxpayer since the contract under which the research was done provided that any intellectual property resulting from the project would vest in Canada.

Lastly, the appeal could not succeed because the taxpayer had not produced the receipts required under subsection 118.1(2) of the *Income Tax Act* and section 3501 of the *Income Tax Regulations* to support his claim.

The taxpayer appealed this decision to the Federal Court of Appeal on the grounds that scientific research and higher education teaching were property rather than services.

The taxpayer argued that the Act does not explicitly restrict the subject matter of a gift to "property." He asserted that he had made a donation in kind (i.e., a donation of goods or labour, not money, Oxford Dictionary of Current English, 1993, page 487). In his view, nothing prevented the recognition of a gift of services for income tax purposes.

In its decision, the Federal Court of Appeal rejected the taxpayer's argument that a gift could be a service:

> *"a gift for income tax purposes must involve the transfer of something known to law as property. The mere supply of services without compensation involves no property and hence cannot form the subject matter of a gift. This is to be contrasted with remunerated services which once performed give rise to rights capable of ownership and which can in turn form the subject matter of a gift. The simplest example of this would be the remunerated worker who assigns gratuitously his right to the remuneration which he has earned. In the present case, it is common ground that the [taxpayer] was to render his services without any form of compensation."*

The Federal Court of Appeal also rejected the taxpayer's argument that as a result of his efforts, the Canadian Space Agency became the proprietor of valuable research. According to him, this research constituted intellectual property that can form the subject matter of a gift. However, the agreement under which the research was done provided that any such property would vest in Canada and not the university or any member of the research team. Therefore, the appellant could not have become the owner of any intellectual property that he claimed to have given. The Court declined to decide whether the appellant's efforts gave rise to some form of intellectual property.

The Federal Court of Appeal also confirmed that the receipts the taxpayer filed did not meet the requirements of the *Income Tax Act*. For example they lacked the registration number of the issuer, and did not state that they were issued for tax purposes.

A copy of the decision is available at: **http://decisions.fca-caf.gc.ca/fca/2003/2003fca350.shtml**

Procedural fairness when a result is inevitable

The Lord's Evangelical Church of Deliverance and Prayer of Toronto appealed the CRA's intention to revoke the Church's registered charitable status to the Federal Court of Appeal. The Court heard the case on November 3, 2004, and on November 25, issued its decision in favour of the CRA.

The appellant (registered as a charitable organization in 1991) was incorporated with the principal object to "preach, promote and advance the spiritual teachings of the Evangelical Faith."

Through a 2001 audit of the Church, the CRA determined that the Church was not complying with the rules as set out in the *Income Tax Act*. The CRA made the results of the audit known to the Church in a March 15, 2002 letter. The audit revealed a likelihood that the pastor was misappropriating funds. Examples of this were the payment of personal expenses of the pastor or other person, and a total of $150,000 in down payments made on homes for each of the pastor's three children. Other concerns included the adequacy of the Church's books and records and improper receipting practices. The Church's solicitor promised a response to the CRA's letter before the end of May 2002.

Although the Church was contacted on several occasions, the CRA received no response to its concerns until the Church's solicitors sent a letter dated March 24, 2003. This letter contained a request for "a further one (1) year period in which to satisfy the Minister" that the appellant was "in substantial compliance with the Act." Neither the letter nor subsequent communications from the organization addressed the CRA's concerns in an adequate manner.

In its appeal, the Church raised the issue of procedural fairness. The Church argued that the CRA had agreed to allow the personal benefit gifts — the gifted down payments to the pastor's children — to be converted into mortgage loans.

The Federal Court of Appeal rejected the notion that the CRA had agreed to allow the Church to convert the personal benefit gifts into mortgage loans. It also ruled that procedural fairness was provided. It held that even if it had found a breach of natural justice and procedural fairness on the question of the gifted down payments, other grounds for revocation existed that were not seriously attacked by the appellant as denying procedural fairness. When a result is inevitable, a particular breach of procedural fairness may not require a decision to be set aside (*Mobil Oil Canada Ltd. v. Canada-Newfoundland Offshore Petroleum Board*, [1994] 1 S.C.R. 202 at page 228). The Court found that the Minister of National Revenue was justified in determining that the appellant had ceased to comply with the registration requirements of the Act, and noted the inattention paid by the Church and its representative in responding to the Charities Directorate's concerns. Therefore, procedural fairness was not denied in arriving at that decision.

The Church did not exercise its right to seek leave to appeal to the Supreme Court of Canada. The CRA moved to revoke the Church's status by having the notice of revocation published in the *Canada Gazette*. Revocation was effective on March 5, 2005.

A copy of the decision is available at: **http://decisions.fca-caf.gc.ca/fca/2004/2004fca397.shtml**

What is procedural fairness?

An organization must be notified about the CRA's concerns regarding the organization's application for registration or the organization's continued registration. This lets the organization address the concerns before the CRA makes a final decision on registration.

Procedural fairness was at issue in the appeal called *Renaissance International v. Minister of National Revenue*. This case influenced the Charities Directorate's current practices of providing applicants and registered charities with an opportunity to address the CRA's concerns before a final CRA decision. This appeal resulted from a Notice of Intention to revoke the organization's registration. The Court agreed with the argument that where there was no chance to meet allegations, there was a breach of procedural fairness or natural justice. This decision imposed a duty on the Minister of National Revenue under administrative law to give reasons and an opportunity to reply before revoking a charity.

Contact information

You can call us at the Charities Directorate toll free:

1-800-267-2384 (for service in English)
1-888-892-5667 (bilingual).

You can also write to us at:

Charities Directorate
Canada Revenue Agency
Tower A
320 Queen Street
Ottawa ON K1A 0L5

Email your comments or suggestions:

- about this newsletter to:
  charities-bienfaisance-bulletin@ccra-adrc.gc.ca
- about our draft publications to:
  consultation-policy-politique@ccra-adrc.gc.ca
- about our Roadshow to:
  information.sessions@ccra-adrc.gc.ca
- about our Web site to:
  Charities-Bienfaisance@ccra-adrc.gc.ca

You can contact the Charities Representative about service provided by the Directorate at 1-866-303-0316 toll free, or 948-8608 in the greater Ottawa area, or by email at:
charities-bienfaisance-resource@ccra-adrc.gc.ca

You can find all our publications at: **www.cra.gc.ca/charities**

Draft publications for consultation are available at:
www.cra.gc.ca/tax/charities/consultation_policy-e.html

For information on new additions about charities, see the "What's new" page at:
www.cra.gc.ca/tax/charities/whatsnew/whatsnew-e.html

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